



## Filing Receipt

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**Control Number - 51841**

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**PROJECT NO. 51841**

<b>REVIEW OF 16 TAC § 25.53</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>RELATING TO ELECTRIC SERVICE EMERGENCY</b>	<b>§</b>	
<b>OPERATIONS PLANS</b>	<b>§</b>	<b>OF TEXAS</b>

**COMMENTS OF CENTERPOINT ENERGY HOUSTON ELECTRIC, LLC**

CenterPoint Energy Houston Electric, LLC (“CenterPoint Energy” or the “Company”) is a transmission and distribution utility (“TDU”) in the ERCOT region and appreciates the opportunity to file these comments in response to the Commission’s December 1, 2021 Proposal for Publication and request for comments. The Proposal for Publication seeks to repeal the Commission’s existing rule 25.53 and adopt a new rule 25.53, relating to “Electric Service Emergency Operations Plans.” These comments include the following attachments:

- Attachment 1. CenterPoint Energy’s Redlined Changes to the Proposed New Rule 25.53
- Attachment 2. July 20, 2020 Texas Attorney General Letter to the PUCT
- Attachment 3. CenterPoint Energy’s Executive Summary

**Introduction**

Senate Bill 3 amended PURA § 186.007 to require the Commission to submit a weather emergency preparedness report to the Texas executive and legislative branches by September 30 of each even-numbered year. The legislation also added the emergency operations plans (“EOPs”) of retail electric providers (“REPs”) to the Commission’s scope of review in preparing the report, in addition to the EOPs already on file of electric utilities, power generation companies (“PGCs”), municipally owned utilities, and electric cooperatives that operate generation facilities. The legislation further mandated the Commission to order an entity that meets the definition of any of the above terms to file an “updated EOP” only if the Commission “finds that an [EOP] on file does not contain adequate information to determine whether the entity can provide adequate electric services.”

The proposed new rule 25.53 goes beyond the requirements of Senate Bill 3's amendments to PURA § 186.007. Although the Commission has not made any findings since Senate Bill 3's effective date that an applicable entity's currently filed EOP "does not contain adequate information to determine whether the entity can provide adequate electric services," the proposed new rule 25.53 requires all covered entities with currently filed EOPs to replace them with new EOPs by April 1, 2022 and dictates the format and contents for the new EOPs. CenterPoint Energy will comply with the EOP requirements specified in the rule that the Commission adopts in this project but believes additional time is required to complete this task. CenterPoint Energy does not currently maintain a single plan for all emergencies; rather, it maintains various independent plans for dealing with different types of emergency situations, such as a hurricane and storm response plan, a cybersecurity plan, an EMP protection plan, and various other plans. The label "EOP" has traditionally been applied by CenterPoint Energy only to its plan for addressing a system-wide storm emergency situation. The proposed rule may require the Company to completely revise and integrate its separate, emergency-specific plans and procedures into a comprehensive, single emergency operations plan.

A redline of the proposed new rule is attached to these comments ([Attachment 1](#)), showing CenterPoint Energy's recommended changes, including extending the date by which conforming EOPs must be filed from April 1, 2022 to June 1, 2022. In these comments, CenterPoint Energy explains the justifications for those changes.<sup>1</sup> Ultimately, the Company desires the Commission to have the oversight tools needed to ensure the covered entities are prepared for emergencies.

#### **Subsection (b) Definitions**

The Company proposes modifications in the definitions for the terms "annex," "drill," and "emergency" as shown in the attached redline document.

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<sup>1</sup> These comments may not address some of the minor changes shown in the Company's redline attachment, because they are merely grammar or typo-corrections, or otherwise self-explanatory.

**Annex.** Because not all hazards or threats give rise to an emergency, and because an EOP is intended to apply only in emergencies, the definition for “annex” is shortened by replacing “the incidence of a specific hazard or threat” with “specified emergencies.”

**Drill.** The definition for the term “drill” is also shortened by deleting the unnecessary and vague words “that is a coordinated, supervised activity employed” from the definition.

**Emergency.** The Commission’s proposed definition for the term “emergency” captures only “imminent hazards” within its meaning. The Company’s changes expand this definition to include “***existing or*** imminent hazards.” The definition is further modified to avoid potential ambiguity and redundancy by replacing the word “incident” with “situation” and by eliminating the unnecessary words “endangers life or property,” since those words are already embodied in the definitions for both “hazard” and “threat.” In addition, the term “Reliability Coordinator” used in this definition and in other areas of the proposed rule is not formally defined and should not be capitalized. It obviously refers to other independent system or regional transmission operators in Texas such as MISO and SPP and does not need to be capitalized. Finally, because not all hazards or threats may necessarily give rise to an emergency (as stated above) and may not necessarily trigger the activation of an entity’s EOP if the magnitude of the risk presented by the hazard or threat is low or insignificant, (1) qualifying words are added to the definition to connote a greater measure of magnitude for the risk presented by the hazard or threat to classify it as an emergency that could trigger an entity’s EOP, and (2) a new sentence is added at the end of the definition stating that, except for government declared emergencies, “an entity may use reasonable discretion in classifying a situation as an emergency.” Except for government-declared emergencies, each entity must have the ability to determine on its own when to declare an emergency and when to activate its EOP. Taking these changes together, the Company proposes the following definition for “emergency”:

a situation resulting from an existing or imminent hazard or threat that presents a credible risk of a significant or widespread disruption to the continuity of electric service. The term includes an emergency declared by local, state, or federal government; ERCOT; or a reliability coordinator that is applicable to the entity. Except for such declared

emergencies, an entity may use reasonable discretion in classifying a situation as an emergency.

### **Subsection (c) Filing Requirements**

#### **Subsection (c)(1) New EOP Filing Requirement.**

Subsection (c)(1) requires an entity to file a new EOP containing the contents, and in the format and structure, specified in subsection (d) by April 1, 2022 and by February 15 of each year thereafter. CenterPoint Energy recommends extending the April 1, 2022 new EOP filing deadline to June 1, 2022 and sees no value in requiring an entity to refile its EOP every year by February 15 beginning in 2023.

Conforming CenterPoint Energy's currently filed EOP, which has never been found to contain insufficient information to determine whether it can provide adequate electric service in an emergency, to the proposed rule's EOP structure and content requirements will be an extensive and time-consuming task, requiring internal coordination, review, and management approvals at all levels of the organization, and April 1, 2022 appears to be an arbitrary deadline for completing this monumental task. Rather, CenterPoint Energy proposes a June 1, 2022 deadline for an entity to draft and implement a new EOP in conformance with the rule and get it filed. June 1 is not an arbitrary date; it is the National Weather Service's official start of the Atlantic hurricane season. June 1 is therefore an appropriate time for any entity to implement a new EOP and provides entities with a more reasonable amount of time to prepare and file the new EOP called for in the rule.

The proposed rule's requirement for each entity to additionally "file an EOP no later than February 15" of each year beginning in 2023 is inexplicable. For virtually every entity, the EOP that an entity would be required to file every February 15 will be identical to the EOP that the entity already has on file as of day preceding February 15. This proposed annual filing requirement is essentially a requirement to file a new EOP to replace an identical existing EOP that is already on file and would have no value and provide no benefit.

After the initial EOP is filed by each entity in 2022, any updates that an entity makes to its EOP will be captured by the updated filing requirement under subsection (c)(4) of the proposed rule, which requires an entity to file an updated EOP within a specified timeframe if changes are made, rather than to wait to make such updated EOP filings only one time a year on February 15. Therefore, on February 15 of every year, an entity's then-currently filed EOP will already contain all the updates and changes that the entity made prior to February 15. Instead of a requirement for an entity to refile its EOP annually, even if no changes to it have been made since it was last filed, the Company proposes a different annual filing requirement as explained below in the discussion regarding new subsection (c)(2).

**Subsection (c)(1) Confidential Information in EOPs.**

Much of the information contained in an entity's EOP will be confidential or constitute critical energy infrastructure information protected from disclosure under the Texas Public Information Act.<sup>2</sup> In particular, most if not all of the information in an entity's "cyber security annex" and "physical security incident annex" that are required to be part of an entity's EOP will fall under PIA § 552.101's confidential information exception to the public information disclosure requirement in PIA § 552.021. Indeed, the Texas Attorney General's Office issued a letter to the Commission's General Counsel on July 20, 2020, finding that the public disclosure of an entity's EOP "would identify the technical details of particular vulnerabilities" regarding an entity's system and directing the Commission to not release an entity's EOP in response to a PIA request. A copy of that letter is attached (Attachment 2).

CenterPoint Energy's recommended changes to subsection (c)(1)(A) and (B) of the proposed rule are in recognition of these confidential characteristics of the information in an EOP. The Company revised paragraph (A) to make it clear that an entity's unredacted EOP filed with the Commission must be deemed and treated as confidential in its entirety. The Company further revised

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<sup>2</sup> Tex. Gov't Code §§ 552.001 - 552.353 (the "PIA").

paragraph (B) to make it clear that ERCOT must also treat the unredacted EOPs that entities are required to submit to ERCOT as Protected Information in accordance with the ERCOT Nodal Protocols.

**New Subsection (c)(2) Summary After-Action Reports and Affidavits.**

CenterPoint Energy recommends turning paragraph (C) of subsection (c)(1) into a new subsection (c)(2), and revising it to require an entity to annually file by June 1 of each year both (A) a summary after-action report that includes lessons learned for each emergency in the prior calendar year that required the entity to activate its EOP (subject to the same confidentiality safeguards described in subsection (c)(1)) and (B) an affidavit affirming that the entity's currently filed EOP includes all material updates and changes that may have been made by the entity since June 1, 2022 and containing the affirmations listed in subsection (d)(4) of the proposed rule. The justifications for these changes to the propose rule are as follows:

- (1) As stated above, the Company is recommending that the annual EOP filing requirement in subsection (c)(1) of the proposed rule be removed, because it serves no reasonable purpose. Thus, there would be no "annual EOP" in which to even include an after-action report summary and outline of EOP changes made as a result.
- (2) Requiring such a summary and outline to be inserted into and made a part of the EOP will likely make the EOP confusing and unwieldy.
- (3) It makes more sense for both the EOP affidavit required by subsection (d)(4) of the proposed rule and the after-action summaries to be filed annually as stand-alone documents and not be made part of an entity's official EOP.
- (4) If Commissions staff desires to review an entity's after-action report more frequently than annually, Commission staff already has the ability, backed by a legal compulsion process, to request information or the production of documents from a regulated entity at any time and

can request an entity to provide a copy of an after-action report directly to Commission staff for its review if requested.<sup>3</sup>

(5) Any changes that an entity makes to its EOP to address the lessons learned from an EOP activation must be included in an updated EOP filing that the entity is already required to make under subsection (c)(4) within 30 days of when those changes take effect. CenterPoint Energy's changes in subsection (c)(4), discussed below, include a requirement that, when an entity files an updated EOP under subsection (c)(4), the entity include a cover letter outlining the change. Thus, there is no need to annually file an outline of EOP changes made by an entity as a result of lessons learned, because every EOP update filing made by an entity (whether for lessons learned or other reasons) will have to include such an outline in the cover letter accompanying the filing.

#### **Subsection (c)(3) New PGC and REP Registration/Certification.**

Subsection (c)(3) of the proposed rule requires a person seeking first-time REP or PGC registration or certification to file an EOP at the time it applies for registration or certification. In the Company's redline attachment, the words "after June 1, 2022" are inserted, to make it clear that this requirement to file an EOP under the rule at the time a person seeks REP or PGC registration or certification applies only to persons who seek such registration or certification after June 1, 2022. Such persons will not be "entities" on June 1, 2022, so they cannot be required to file EOPs under the rule by June 1, 2022. The June 1, 2022 initial EOP filing requirement under subsection (c)(1) of the proposed rule applies only to the electric utilities, coops, PGCs, and REPs who are or will have been registered or certified on or before June 1, 2022. A person who becomes such an entity after June 1, 2022 will have to make its EOP filing when it applies or registers.

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<sup>3</sup> See PURA §§ 14.201-.207.



#### **Subsection (c)(4) Updated Filings.**

Subsection (c)(4) requires an entity to file an updated EOP “within 30 days” of the occurrence of certain events. The Company’s redline attachment deletes the “within 30 days” requirement to the extent it applies to all those events that purport to trigger an updated EOP filing under the rule. The 30-day requirement for filing an updated EOP should only apply when the entity makes a significant change to its currently filed EOP.

Paragraph A of subsection (c)(4) requires an entity to file an updated EOP “*if commission staff* determines that the entity’s EOP on file does not contain sufficient information to determine whether the entity can provide adequate electric service through an emergency.” (Emphasis added). PURA § 186.007(b) requires the Commission, not Commission Staff, to make such a determination, however. It states:

*The commission* shall require an entity subject to this section to file an updated emergency operations plan if [*the commission*] finds that an emergency operations plan on file does not contain adequate information to determine whether the entity can provide adequate electric services.

(Emphasis added).

Consistent with PURA § 186.007(b), CenterPoint Energy’s recommended changes to paragraph (A) require an entity to file an updated EOP only if the Commission, rather than Commission Staff, determines that the entity’s EOP on file does not contain sufficient information to determine whether the entity can provide adequate electric service through an emergency. Moreover, instead of the entity having to make such a filing within 30 days of such a Commission determination, paragraph (A) is further revised to require the entity to make the update filing “within the time period specified in a commission order” in which the insufficiency finding is made. This revision allows the Commission, in setting a deadline for the entity to make an update filing under paragraph (A), to take into account, on a case-by-case basis, the complexity of the required update and time that an entity may reasonably need to make the required updates to its EOP.

The Company's redline attachment also deletes paragraph (B), which would require an entity to file an updated EOP "in response to feedback provided from commission staff." Such a requirement is vague and ambiguous and essentially turns the Commission Staff's advocacy role on its head. Again, any material change that an entity makes to its EOP must already be filed by the Utility under paragraph (C) in an updated filing made "no later than 30 days after the change takes effect." Commission staff may advise an entity to make an update to its EOP, and it may be wise for the entity to take that advice, in which case paragraph (C) as shown in the Company's attached redline would apply to the updated filing. But, if the entity disagrees that its EOP should be updated, Commission Staff always has the option in its role as an advocate for the public interest to request a show-cause hearing or file a show-cause motion for the Commission to adjudicate whether the entity's EOP should be updated, in which case paragraph (A) as shown in the Company's attached redline would apply to the updated filing. However, a Commission Staff member does not have the unilateral authority to force an entity to change its EOP. They must seek a Commission order to compel an entity. An entity has due process rights.

As mentioned above, the Company's attached redline marks up paragraph (C) – which is renumbered paragraph (B) – by requiring any entity that must file an updated EOP because it has made a "significant change to its EOP" to include "a cover letter outlining the change." Providing an outline of the EOP change with the updated EOP filing itself, as the Company proposes, is superior to requiring an outline of all EOP changes to be filed in the aggregate only once a year.

The Company also inserted a new paragraph (C) and revised paragraph (D) in subsection (c)(4) – now subsection (c)(3) – to provide all updated EOP filings with the same confidentiality protections and redaction options that are provided in paragraph (c)(1) with respect to an entity's initial EOP filing made under this rule.

#### **Subsection (d) Information to Be Included in the Emergency Operations Plan**

Subsection (d) of the proposed rule sets forth the content and format requirements for all EOPs to be filed by entities by the filing due date set forth in subsection (c)(1).

**Subsection (d)(1) Approval and Implementation Section.**

CenterPoint Energy's first recommended revision is in paragraph (C) of subsection (d)(1), which requires an entity's EOP to contain an "approval and implementation section" that includes "a revision control summary which outlines and dates each change made to the EOP *since the last time the EOP was adopted by the entity.*" (Emphasis added). The Company believes the only EOP changes that should be tracked under this rule are the EOP changes made since the entity's initial EOP filing called for under this rule in subsection (c)(1). The Company intends to number its June 1, 2022 EOP filing under subsection (c)(1) as version 1 or something to that effect. All subsequent EOP updates filed by the Company will be assigned and tracked by control or version identifications that follow the Company's first version filed under the rule.

**Subsection (d)(2) Record of EOP Distribution.**

Subsection (d)(2) requires an entity's EOP to list the "titles and names of persons in the entity's organization receiving the EOP." The Company's attached redline revises subsection (d)(2) to give an entity the option of providing a statement "that the EOP has been distributed or made accessible to all persons in the entity's organization" in lieu of having to list the titles and names of each person in the entity's organization that has received or has access to the entity's EOP. At CenterPoint Energy, the EOP is posted on the Company's intranet site to which all employees have access, and it can be reviewed, downloaded, and printed by all Company employees. There is not a formal EOP distribution process at CenterPoint Energy whereby the Company's EOP is distributed to only select employees. It would therefore be useless to list the titles and names of every person in CenterPoint Energy's organization who has access to the Company's EOP, because that would be literally every employee.

**Subsection (d)(3) Emergency Contacts.**

Subsection (d)(3) requires an entity's EOP to include a "list of emergency contacts for the entity, including identification of single points of contact during an emergency." The intended benefits of including a list of emergency contacts in an entity's EOP are unclear. Moreover, because these emergency contact roles may change frequently within the entity's organization, the Company believes they should not be a required part of the EOP. The purpose of the EOP is to ensure the entity can respond to emergencies. The roles of individual Company employees under an EOP are identified through training and assignments made outside of the EOP's pages, and those individuals know their respective assignments, and EOP rosters are also available on the Company's intranet site. Requiring their identities to be in the EOP does not help the entity respond to an emergency. The Company, therefore, has struck subsection (d)(3) in the attached redline and has, instead, revised subsection (g) of the proposed rule (discussed in more detail below) to include a requirement that an entity continue to submit its emergency contact information to the Commission in the same manner as currently required by the existing rule 25.53(e).<sup>4</sup>

#### **Subsection (d)(4) Affidavit.**

Subsection (d)(4) requires an entity's EOP to include an affidavit that makes various affirmations. As mentioned in these comments above with respect to the Company's new subsection (c)(2), the affidavit requirement in subsection (d)(4) should not be part of the EOP itself but, instead, should be turned into its own annual filing requirement, and the required affirmations for the annual affidavit are set forth in subsection (c)(2)(B) of CenterPoint Energy's attached redline. CenterPoint Energy recommends allowing any officer of the entity with binding authority over the entity to make the affirmations, instead of only the entity's highest ranking officer.

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<sup>4</sup> Subsection (e) of the Commission's existing rule 25.53 provides: "**Emergency contact information.** A market entity shall submit emergency contact information using the method and form prescribed by commission staff, as described on the commission's website. A market entity shall notify commission staff regarding a change to its emergency contact information within 30 days of the change."

The only affirmation in subsection (d)(4) of the proposed rule that CenterPoint Energy omits from the affirmations listed in subsection (c)(2)(B) of its redline is the statement that the entity has distributed its EOP to “local jurisdictions as needed.” This statement is inappropriate for a sworn affidavit, because there is no legal mandate for entities to distribute their EOPs to local jurisdictions, and it may not be something that all entities want to or should do. Moreover, the “as needed” qualification to this statement is vague and ambiguous, because it is unclear who determines such a need or how such a need should be determined. In any event, as a part of its regular course of business as well as its EOP structure and process, CenterPoint Energy regularly provides emergency contacts to its local jurisdictions. The Company’s redline to the rule also revises the affirmation that “the entity's emergency management personnel who are designated to interact with local, state, and federal emergency management officials during emergency events have received National Incident Management System training” to exclude entity personnel who are designated to interact with ERCOT.

#### **Subsection (e) Annexes**

Subsection (e)(1)(C)(iii) of the Commission’s proposed rule requires an electric utility to include in its load shed annex “a registry of critical load customers” and, among other things, “the process for providing assistance to critical load customers in the event of an unplanned outage.” Such a registry would contain highly sensitive proprietary customer information and, for certain critical loads such as critical natural gas facilities, highly sensitive critical infrastructure information, and therefore should not be filed. CenterPoint Energy will continue to maintain a registry of critical load customers outside of the EOP’s pages and will happily provide Commission staff with updated copies if request, but the Company does not believe such a registry should become a part of an entity’s filed EOP. The requirement to include a process for providing assistance to such customers in the event of an unplanned outage is vague, even though it is in the current version of rule 25.53. Other than providing contact information for their

inquiries, there is no requirement for an electric utility to provide “assistance” to such customers during an unplanned outage. CenterPoint Energy’s attached redline strikes subsection (e)(1)(C)(iii).

CenterPoint Energy also recommends deleting subsection (e)(1)(G) and (e)(1)(H), requiring EOPs to include a cyber security annex and a physical security incident annex, respectively. The Company believes the information that would be contained in these annexes is too sensitive to be filed in unredacted form, even under seal. Its cyber security and physical security plans are even strictly restricted within the Company and not part of the EOP that is otherwise accessible to all Company personnel through its intranet site. The Company has no problem providing Commission staff access to such information upon request but doesn’t believe the information should be filed.

Finally, CenterPoint Energy recommends revising subsection (e)(2) pertaining to electric utilities that operate a generation resource, by adding a proviso that states that “a generation facility that is leased, owned, or operated by a transmission and distribution utility pursuant to Tex. Util. Code 39.918 is not considered a generation resource.”

#### **Subsection (f) Drills**

Subsection (f) of the Commission’s proposed rule waives the “annual” drill requirement for an entity if its EOP has been “implemented in response to an incident within the last 12 months.” This waiver language is also in subsection (d) of the currently effective version of rule 25.53 and has always been ambiguous as to how to apply the 12-month period. CenterPoint Energy believes that its redline changes shown in the attachment to subsection (f) removes the ambiguity and should be adopted.

#### **Subsection (g) Reporting Requirements**

The Company’s attached redline changes the heading of this subsection from “**Reporting Requirements**” to “**Emergency contacts and status updates during an emergency**” to be more descriptive of its contents and to avoid confusion with other reporting requirements elsewhere in the proposed rule. As mentioned in these comments above regarding CenterPoint Energy’s deletion

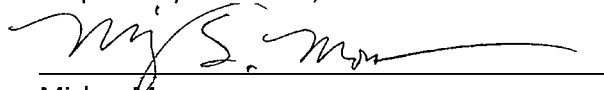
of proposed subsection (d)(3)'s requirement to include emergency contacts in the EOP itself (and consistent with the Company's change to the heading), the attached redline moves the emergency contact requirement from subsection (d)(3) of the proposed rule to subsection (g) of the Company's redline. (*See supra* footnote 4 and accompanying text).

The redline also strikes the last sentence of subsection (g) of the proposed rule (subsection (g)(2) of the attached redline), which states, "commission staff may require an affected entity to provide an after action or lessons learned report and file it with the commission by a date specified by commission staff." This sentence is no longer necessary in light of the proposed rule's requirement in subsection (c)(1)(C) (or subsection (c)(2)(A) of the Company's redline) for each entity to file such reports annually, and in light of the fact that staff already has the authority to request the production of such reports on a more frequent basis (*see supra* footnote 3 and accompanying text).

### CONCLUSION

CenterPoint Energy appreciates the opportunity to submit these comments and pledges to work with the Commission and other parties to ensure that the rules adopted in this proceeding for EOPs are workable and best designed to mitigate the impacts of emergencies whenever they may arise. An executive summary of these comments is attached (Attachment 3).

Respectfully submitted,



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ATTORNEY FOR CENTERPOINT ENERGY  
HOUSTON ELECTRIC, LLC



**§25.53. Electric Service Emergency Operations Plans.**

- (a) **Application.** This section applies to each electric utility, transmission and distribution utility, power generation company (PGC), municipally owned utility, electric cooperative, and retail electric provider (REP), and to the Electric Reliability Council of Texas (ERCOT). The term "entity" as used in this section refers to the above-listed entities.
- (b) **Definitions.**
- (1) **Annex** -- a section of an emergency operations plan (EOP) that addresses how an entity plans to respond to specified emergencies~~the incidence of a specific hazard or threat~~.
  - (2) **Drill** -- an operations-based exercise ~~that is a coordinated, supervised activity employed~~ to test an entity's EOP. A drill may be used to develop or test new policies or procedures or to practice and maintain current skills.
  - (3) **Emergency** -- ~~any incident~~ a condition resulting from an existing or imminent hazard or threat that ~~endangers life or property or presents~~ a credible risk of a significant or widespread disruption to an entity's system and the continuity of electric service. The term includes an emergency declared by local, state, or federal government; ERCOT; or a ~~Reliability~~ reliability Coordinator ~~coordinator~~ that is applicable to the entity. Except for such declared emergencies, an entity may use reasonable discretion in classifying a situation as an emergency.
  - (4) **Emergency operations plan** -- the plan and attached annexes, maintained on a continuous basis by an entity, intended to protect life and property and ensure continuity of adequate electric service in response to an emergency.
  - (5) **Hazard** -- a natural, technological, or human-caused condition that is potentially dangerous or harmful to life, information, operations, the environment, or property.
  - (6) **Threat** -- the intention and capability of an individual or organization to harm life,

information, operations, the environment, or property.

(c) **Filing Requirements.**

- (1) An entity must file an EOP under this section by ~~April-June 1, 2022~~ or as specified in subsection (c)(3) for a person who initially applies for certification or registration as a REP or PGC after June 1, 2022. ~~Beginning in 2023, an entity must annually file an EOP no later than February 15 in the manner prescribed by the commission.~~
- (A) An entity must file with the commission ~~its a confidential,~~ unredacted EOP in its entirety pursuant to rule 22.71(d) of this title and a public, redacted EOP. Unredacted EOPs filed with the commission contain confidential information concerning critical infrastructure as defined in Tex. Gov't Code § 421.001(2) and should be exempt from public disclosure under section 552.101 of the Texas Public Information Act, Tex. Gov't Code §§ 552.001-.353.
- (B) For an entity with operations within the ERCOT power region, the entity must submit its unredacted EOP in its entirety to ERCOT, and ERCOT shall designate and treat such unredacted EOPs as Protected Information under section 1.3 of the ERCOT Nodal Protocols.
- (~~C~~2) Beginning ~~in June 1, 2023,~~ the annual EOP must include, an entity must annually file each of the following with the commission:
  - (A) Ffor each ~~incident-emergency~~ in the prior calendar year that required the entity to activate its EOP, a summary after-action report that includes lessons learned ~~and an outline of changes the entity made to the EOP as a result.~~ The summary after-action report must be filed in redacted and unredacted form consistent with, and is subject to the confidentiality procedures specified in, paragraph (c)(1)(A).
  - (B) An affidavit by an officer of the entity with binding authority over the entity affirming that the entity's filed EOP includes all material updates and changes

that may have been made by the entity since June 1, 2022 and is the entity's current EOP as of the date of the affidavit. The annual affidavit must also affirm the following:

- (i) that relevant operating personnel are familiar with and have received training on the contents of the EOP, and such personnel are committed to following the EOP except to the extent deviations are appropriate as a result of specific circumstances during the course of an emergency;
- (ii) that the EOP has been reviewed and approved by the appropriate executives; that required drills were conducted during the preceding calendar year;
- (iii) that the entity maintains a business continuity plan that addresses returning to normal operations after disruptions caused by an incident; and
- (iv) that the entity's emergency management personnel who are designated to interact with local, state, and federal emergency management officials during emergency events have received National Incident Management System training, specifically IS-700.a, IS-800.b, IS-100.b, and IS-200.b, except for entity personnel who are designated to interact with ERCOT officials.

- (3) A person seeking registration as a PGC or certification as a REP after June 1, 2022 must file an EOP with the commission at the time it applies for registration or certification with the commission, and must submit the EOP to ERCOT if it will operate in the ERCOT power region, no later than ten days after the commission approves the person's certification or registration.
- (4) ~~Updated filings.~~—An entity must file an updated EOP with the commission ~~within 30 days~~ under the following circumstances.

- (A) An entity must file an updated EOP within the time period specified in a commission order if the commission ~~staff~~ determines that the entity's EOP on file does not contain sufficient information to determine whether the entity can provide adequate electric service through an emergency.
- ~~(B) An entity must file an updated EOP in response to feedback provided from commission staff.~~
- ~~(EB)~~ An entity must file an updated EOP if the entity makes a significant change to its EOP. A significant change to an EOP includes a change that has a material impact on how the entity would respond to an emergency. The entity must file the updated EOP along with a cover letter outlining the changes contained in the updated EOP with the commission no later than 30 days after the change takes effect.
- ~~(C) All updated EOPs filed pursuant to paragraphs (c)(4)(A) and (c)(4)(B) must be filed in redacted and unredacted form consistent with, and are subject to the confidentiality procedures specified in, paragraph (c)(1)(A).~~
- (D) An entity with operations within the ERCOT power region must submit its updated EOP under paragraphs (c)(4)(A), ~~(c)(4)(B)~~, and (c)(4)(~~EB~~) to ERCOT in unredacted form within 30 days of filing the updated EOP with the commission subject to the Protected Information requirements described in paragraph (c)(1)(B).
- (5) Notwithstanding the other requirements of this subsection, ERCOT must maintain a current EOP in its entirety, consistent with the requirements of this section and available for review by the commission or the commission's designee.
- (d) **Information to be included in the emergency operations plan.** An entity's EOP must address ~~both common~~ operational functions that can be used ~~for every type of emergency in~~ emergencies and include annexes that outline the entity's response to the types of

emergencies specified in subsection (e). Each entity's EOP must include the following information; if applicable. If a provision in this section does not apply to an entity, the entity must include in its EOP an explanation of why the provision does not apply.

- (1) An approval and implementation section that:
  - (A) introduces the EOP and outlines its applicability;
  - (B) lists the individuals responsible for maintaining and implementing the EOP, and those who can change the EOP;
  - (C) provides a revision control summary ~~which outlines and that lists the dates of~~ each change made to the EOP since the ~~last time the EOP was adopted by the~~ entity initial EOP filing pursuant to paragraph (c)(1);
  - (D) provides a ~~dated~~ statement that the current EOP supersedes previous EOPs; and
  - (E) states the date the EOP was most recently approved by the entity.
- (2) A record of distribution that contains the following information in table format:
  - (A) titles and names of persons in the entity's organization receiving or having access to the EOP or a statement that the EOP has been distributed or made accessible to all persons in the entity's organization; and
  - (B) dates of distribution or accessibility.
- ~~(3) A list of emergency contacts for the entity, including identification of single points of contact during an emergency.~~
- ~~(4) An affidavit from the entity's highest-ranking representative, official, or officer with binding authority over the entity affirming the following:~~
  - ~~(A) relevant operating personnel are familiar with and have received training on the contents of the EOP, and such personnel are committed to following the EOP except to the extent deviations are appropriate as a result of specific circumstances during the course of an emergency;~~



- ~~(B) — the EOP has been reviewed and approved by the appropriate executives;~~
- ~~(C) — required drills have been conducted;~~
- ~~(D) — the EOP or an appropriate summary has been distributed to local jurisdictions as needed;~~
- ~~(E) — the entity maintains a business continuity plan that addresses returning to normal operations after disruptions caused by an incident; and~~
- ~~(F) — the entity's emergency management personnel who are designated to interact with local, state, and federal emergency management officials during emergency events have received National Incident Management System training, specifically IS-700.a, IS-800.b, IS-100.b, and IS-200.b.~~

~~(53)~~ A communication plan.

- (A) An entity with transmission or distribution service operations must describe the procedures during an emergency for handling complaints and for communicating with the public; the media; customers; the commission; local and state governmental entities, officials, and emergency operations centers; the applicable ~~Reliability Coordinator~~reliability coordinator; and critical load customers directly served during an emergency.
- (B) An entity with generation operations must describe the procedures during an emergency for communicating with the public; the media; the commission; fuel suppliers; local and state governmental entities, officials, and emergency operations centers; and the applicable reliability coordinator.
- (C) A REP must describe the procedures during an emergency for communicating with the public, media, customers, and the commission and the procedures during an emergency for handling complaints during an emergency.
- (D) ERCOT must describe the procedures during an emergency for

communicating, in advance of and during an emergency, with the public, the media, the commission, governmental entities and officials, the state emergency operations center, and market participants.

- (64) A plan to maintain pre-identified supplies for emergency response.
- (75) A plan that addresses staffing during emergency response.
- (86) A plan that addresses how an entity identifies weather-related hazards, including tornadoes, hurricanes, extreme cold weather, extreme hot weather, drought, and flooding, and the process the entity follows to activate the EOP.
- (97) Each relevant annex as detailed in subsection (e) and other annexes applicable to an entity.

(e) **Annexes to be included in the emergency operations plan.**

- (1) An electric cooperative, an electric utility, a municipally owned utility, or a transmission and distribution utility must include in its EOP for its transmission and distribution facilities the following annexes:
  - (A) A cold weather emergency annex that includes:
    - (i) operational plans intended to mitigate the hazards of a cold weather emergency, separate and distinct from the weather preparation standards required under §25.55 (relating to Weather Emergency Preparedness);
    - (ii) a checklist for transmission facility personnel to use during cold weather emergency response; and
    - (iii) a requirement for pre- and post-weather emergency meetings to review lessons learned from past cold weather emergency incidents and to ensure necessary supplies and personnel are available through the weather emergency;
  - (B) A hot weather emergency annex that includes:

- (i) operational plans intended to mitigate the hazards of a hot weather emergency, separate and distinct from the weather preparation standards required under §25.55;
- (ii) a checklist for transmission facility personnel to use during hot weather emergency response; and
- (iii) a requirement for pre- and post-weather emergency meetings to review lessons learned from past hot weather emergency incidents and to ensure necessary supplies and personnel are available through the weather emergency;:-

(C) A load shed annex that must include:

- (i) procedures for controlled shedding of load, ~~whether caused by planned or forced interruption of service; and~~
- (ii) priorities for restoring shed load to service; ~~and~~
- ~~(iii) a registry of critical load customers, directly served, if maintained by an electric utility, an electric cooperative, or a municipally owned utility. The registry must be updated as necessary but, at a minimum, annually. The registry must include the process for maintaining an accurate registry, the process for providing assistance to critical load customers in the event of an unplanned outage, the process for communicating with the critical load customers, and the process for training staff with respect to serving critical load customers.~~

(D) A pandemic and epidemic annex;

(E) A wildfire annex that addresses both response to a wildfire emergency and plans intended to mitigate the hazards of wildfire to the entity's facilities;

(F) A hurricane annex that includes evacuation and re-entry procedures if facilities are located within a hurricane evacuation zone, as defined by the



Texas Division of Emergency Management (TDEM);

~~(G) A cyber security annex;~~

~~(H) A physical security incident annex; and~~

~~(H)(G)~~ Any additional annexes as needed or appropriate to the entity's particular circumstances.

- (2) An electric utility or a municipally owned utility that operates a generation resource, an electric cooperative that operates a generation resource in Texas, and a PGC must include the following annexes for its generation resources; provided, however, that for purposes of this subdivision, a generation facility that is leased, owned, or operated by a transmission and distribution utility pursuant to Tex. Util. Code 39.918 is not considered a generation resource:

(A) A cold weather emergency annex that includes:

- (i) operational plans intended to mitigate the hazards of a cold weather emergency, separate and distinct from the weather preparations standards under §25.55;
- (ii) verification of the adequacy and operability of fuel switching equipment, if installed;
- (iii) a checklist for generation resource personnel to use during cold weather emergency response; and
- (iv) a requirement for pre- and post-weather emergency meetings to review lessons learned from past cold weather emergency incidents and to ensure necessary supplies and personnel are available through the weather emergency.

(B) A hot weather emergency annex that includes:

- (i) operational plans intended to mitigate the hazards of a hot weather

emergency, separate and distinct from the weather preparation standards under §25.55;

- (ii) a checklist for generation resource personnel to use during hot weather emergency response; and
    - (iii) a requirement for pre- and post-weather emergency meetings to review lessons learned from past hot weather emergency incidents and to ensure necessary supplies and personnel are available through the weather emergency.
  - (C) A water shortage annex that addresses supply shortages of water used in the generation of electricity;
  - (D) A restoration of service annex that identifies plans intended to restore to service a generation resource that failed to start or that tripped offline due to a hazard or threat;
  - (E) A pandemic and epidemic annex;
  - (F) A hurricane annex that includes evacuation and re-entry procedures if facilities are located within a hurricane evacuation zone, as defined by TDEM;
  - (G) A cyber security annex;
  - (H) A physical security incident annex; and
  - (I) Any additional annexes as needed or appropriate to the entity's particular circumstances.
- (3) A REP must include in its EOP the following annexes:
- (A) A pandemic and epidemic annex;
  - (B) A hurricane annex that includes evacuation and re-entry procedures if facilities are located within a hurricane evacuation zone, as defined by TDEM;
  - (C) A cyber security annex;

- (D) A physical security incident annex; and
  - (E) Any additional annexes as needed or appropriate to the entity's particular circumstances.
- (4) ERCOT must include the following annexes:
- (A) A pandemic and epidemic annex;
  - (B) A weather emergency annex that addresses ERCOT's plans to ensure continuous market and grid management operations during weather emergencies, such as hurricanes, tornadoes, extreme cold weather, extreme hot weather, and flooding;
  - (C) A hurricane annex that includes evacuation and re-entry procedures if facilities are located within a hurricane evacuation zone, as defined by TDEM;
  - (D) A cyber security annex;
  - (E) A physical security incident annex; and
  - (F) Any additional annexes as needed or appropriate to ERCOT's particular circumstances.
- (f) **Drills.** An entity must conduct or participate in one or more drills ~~annually~~ per calendar year to test its EOP ~~if except for calendar years in which its EOP has not been implemented in response to an incident within the last 12 months~~ actual emergency. If the entity operates in a hurricane evacuation zone as defined by TDEM, at least one of the annual drills must include a test of its hurricane annex. Following the annual drills, the entity must assess the effectiveness of the drills and change its EOP as needed. An entity must notify commission staff, using the method and form prescribed by commission staff, as described on the commission's website, and the appropriate TDEM District Coordinators, by email or other written form, of the date, time, and location at least 30 days prior to the date of at least one drill each year.

(g) **Emergency contacts and status updates during an emergency**~~Reporting requirements.~~

(1) An entity must submit emergency contact information using the method and form prescribed by commission staff, as described on the commission's website and notify commission staff regarding a change to its emergency contact information within 30 days of the change.

(2) Upon request by commission staff during an activation of the State Operations Center by TDEM, an entity must provide updates on the status of operations, outages, and restoration efforts. Updates must continue until all incident-related outages of customers able to take service are restored or unless otherwise notified by commission staff. ~~After an emergency, commission staff may require an affected entity to provide an after action or lessons learned report and file it with the commission by a date specified by commission staff.~~

Project No. 51841 CenterPoint Energy Comments  
Attachment 2. July 20, 2020 Texas Attorney General Letter to the PUCT



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

July 20, 2020

Ms. Kasey Feldman-Thomason  
General Counsel  
Public Utility Commission of Texas  
P.O. Box 13326  
Austin, Texas 78711

OR2020-18017

Dear Ms. Feldman-Thomason:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 835574 (Ref. No. 2020-02-012).

The Public Utility Commission of Texas (the "commission") received a request for specified types of reports during a stated period of time.<sup>1</sup> You state the commission does not have information responsive to portions of the present request.<sup>2</sup> You also state the commission has released some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. Additionally, you state release of the information at issue may implicate the proprietary interests of forty third parties.<sup>3</sup> Accordingly, you state, and provide documentation

<sup>1</sup> You state, and provide documentation demonstrating, the commission sought and received clarification of the information requested. See Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

<sup>2</sup> The Act does not require a governmental body to release information that did not exist when it received a request, create responsive information, or obtain information that is not held by the governmental body or on its behalf. See *Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

<sup>3</sup> The third parties at issue are as follows: AEP OklaUnion; Bandera Electric Cooperative, Inc. ("Bandera EC"); Bartlett Electric Cooperative, Inc. ("Bartlett EC"); Big Country Electric Cooperative, Inc. ("BCEC"); Bluebonnet Electric Cooperative, Inc. ("Bluebonnet EC"); Brazos Electric Power Cooperative, Inc. ("BEPC"); CenterPoint Energy Houston Electric, LLC ("CenterPoint"); Coleman County Electric  
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demonstrating, the commission notified these interested third parties of the request for information and of their right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have received comments from the following third parties: Bandera EC, Bartlett EC, BCEC, Bluebonnet EC, CenterPoint, CCEC, CVEC, DETEC, DSEC, GVEC, HCEC, KEC, LCRA TSC, Lone Star, MVEC, MidSouth, PHEC, SHEC, SBEC, SMEC, SWTEC, TVEC, United, URECC, VEC, WETT, and WCEC.<sup>4</sup> We have considered the submitted arguments and reviewed the submitted information.

Initially, we note Bandera EC, Bartlett EC, BCEC, Bluebonnet EC, CCEC, CVEC, DETEC, GSEC, GVEC, KEC, MVEC, PHEC, SHEC, SBEC, SMEC, SWTEC, TVEC, United, URECC, VEC, and WCEC assert their respective information at issue is not responsive to the present request for information. However, we note the Act requires a governmental body to make a good-faith effort to relate a request for information to information the governmental body holds or to which it has access. *See* Open Records Decision Nos. 563 (1990), 561 at 8-9 (1990), 555 at 1-2 (1990), 534 at 2-3 (1989). Because the commission has submitted the information at issue for our review, we find the commission has made a good-faith effort to relate the present request to information within its possession or control and submit information to this office that is responsive to the request. Accordingly, we will address the arguments against disclosure of the information at issue.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information made confidential by other statutes, such as section 418.181 of the Government Code, which was added to chapter 418 of the Government Code as part of the Texas Homeland Security Act (the "HSA"). Section 418.181 provides "[t]hose documents or portions of documents in the possession of a governmental entity are confidential if they identify the technical details of particular

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Cooperative, Inc. ("CCEC"); Concho Valley Electric Cooperative, Inc. ("CVEC"); Deep East Texas Electric Cooperative, Inc. ("DETEC"); Golden Spread Electric Cooperative, Inc. ("GSEC"); Guadalupe Valley Electric Cooperative, Inc. ("GVEC"); Hamilton County Electric Cooperative Association ("HCECA"); Houston County Electric Cooperative ("HCEC"); Karnes Electric Cooperative, Inc. ("KEC"); Lamar Electric Cooperative, Inc.; Lone Star Transmission, LLC ("Lone Star"); Lower Colorado River Authority Transmission Services Corporation ("LCRA TSC"); Magic Valley Electric Cooperative, Inc. ("MVEC"); Mid-South Electric Cooperative Association ("MidSouth"); Navarro County Electric Cooperative, Inc. ("NCEC"); Navasota Valley Electric Cooperative, Inc. ("NVEC"); Nextera Energy Marketing, LLC; Nextera Retail of Texas, LP; Nueces Electric Cooperative, Inc.; Panola Harrison Electric Cooperative, Inc. ("PHEC"); Pedernales Electric Cooperative, Inc.; Sam Houston Electric Cooperative, Inc. ("SHEC"); San Bernard Electric Cooperative, Inc. ("SBEC"); San Miguel Electric Cooperative, Inc. ("SMEC"); Sharyland Utilities, LLC; Southwest Rural Electric Association, Inc.; Southwest Texas Electric Cooperative, Inc. ("SWTEC"); Texas New-Mexico Power Company; Trinity Valley Electric Cooperative, Inc. ("TVEC"); United Electric Coop ("United"); Upshur-Rural Electric Cooperative, Inc. ("URECC"); Victoria Electric Cooperative, Inc. ("VEC"); Wind Energy Transmission Texas, LLC ("WETT"); and Wood County Electric Cooperative, Inc. ("WCEC").

<sup>4</sup> We have also received comments from BEPC, HCECA, NCEC, and NVEC stating they do not object to the release of their information at issue.

vulnerabilities of critical infrastructure to an act of terrorism.” *Id.* § 418.181. The fact that information may relate to a governmental body’s security concerns does not make the information *per se* confidential under the HSA. *See* Open Records Decision No. 649 at 3 (1996) (language of confidentiality provision controls scope of its protection). Furthermore, the mere recitation by a governmental body of a statute’s key terms is not sufficient to demonstrate the applicability of a claimed provision. As with any confidentiality provision, a governmental body asserting one of the confidentiality provisions of the HSA must adequately explain how the responsive information falls within the scope of the claimed provision. *See* Gov’t Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

You explain the information at issue contains electric utilities’ plans for responding to events that threaten the functionality of electrical systems. We note the information at issue consists of electric utilities’ emergency operations plans. You state, and we agree, the electrical systems at issue constitute critical infrastructure for purposes of section 418.181. *See id.* § 421.001 (defining “critical infrastructure” to include all public or private assets, systems, and functions vital to security, governance, public health and safety, economy, or morale of state or nation). Further, you state the information at issue “reveals vulnerabilities of the critical infrastructure” and assert “release of this information could be useful to terrorists in attacking energy infrastructure and may present a risk to the safe and secure provision of electricity.” Based on your representations and our review, we find you have demonstrated the release of the submitted information would identify the technical details of particular vulnerabilities of the city to an act of terrorism. Accordingly, the commission must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 418.181 of the Government Code.<sup>5</sup>

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Blake Brennan  
Assistant Attorney General  
Open Records Division

BBX/rm

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<sup>5</sup> As our ruling is dispositive, we need not address the remaining arguments against disclosure of the submitted information.

Ref: ID# 835574

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

c: 40 Third Parties  
(w/o enclosures)



**Project No. 51841 CenterPoint Energy Comments**  
**Attachment 3. CenterPoint Energy’s Executive Summary**

CenterPoint Energy requests the following modifications to the Commission’s proposed new rule 25.53:

Subsection (b) Definitions

- **Annex.** Shorten the definition for “annex” by replacing “the incidence of a specific hazard or threat” with “specified emergencies.”
- **Drill.** Shorten the definition for “drill” by deleting the words “that is a coordinated, supervised activity employed” from the definition.
- **Emergency.** Revise the definition for “emergency” to include “*existing or* imminent hazards” and to give an entity reasonable discretion in classifying a hazard or threat as an emergency.

Subsection (c) Filing Requirements

**Subsection (c)(1) New EOP Filing Requirement.**

- Extend the filing deadline for an entity’s first EOP under the new rule to June 1, 2022, the start of the Atlantic hurricane season.
- Strike the requirement for an entity to refile its EOP by every February 15 of each successive year. Other parts of the rule already require an entity to refile its EOP whenever it makes material changes to its EOP.
- If unredacted EOPs must be filed in a prescribed project, a Commission-issued protective order must also be filed in the project. EOPs contain highly sensitive critical infrastructure information and proprietary customer information, and it is important that unredacted copies be protected from public disclosure.

**New Subsection (c)(2) for Annual Summary After-Action Reports and Affidavits.**

- Turn paragraph (C) of subsection (c)(1) into a new subsection (c)(2), and revise it to require an entity to annually file by June 1 of each year both:
  - a summary after-action report that includes lessons learned for each emergency in the prior calendar year that required the entity to activate its EOP and
  - an affidavit by an officer with binding authority over the entity affirming that the entity’s currently filed EOP includes all material updates and changes that may have been made by the entity since June 1, 2022 and containing the affirmations listed in the rule.

**Subsection (c)(4) Updated Filings.**

- An entity can update or change its EOP at any time after June 1, 2022 either by its own volition or if ordered by the Commission.
  - The requirement to file an updated EOP within 30 days should apply only when an entity has changed it by its own volition.
  - If the Commission orders an entity to update its EOP, the deadline for making the updated filing should be set forth in the Commission order based on the facts and circumstances of the ordered update.
- Delete paragraph (B) of subsection (c)(4), which would require an entity to file an updated EOP “in response to feedback provided from commission staff.”
- Require an entity that files an updated EOP because it has made a “significant change to its EOP” to include “a cover letter outlining the change.”

Subsection (d) Information to Be Included in the Emergency Operations Plan

#### **Subsection (d)(1) Approval and Implementation Section.**

- The revision control numbering format that an entity adopts for its EOP should be based on EOP revisions made by the entity beginning subsequent to the entity's initial EOP filing under this rule.

#### **Subsection (d)(2) Record of EOP Distribution.**

- In lieu of an EOP having to list the "titles and names of persons in the entity's organization receiving the EOP," allow an entity to provide a statement "that the EOP has been distributed or made accessible to all persons in the entity's organization."

#### **Subsection (d)(3) Emergency Contacts.**

- Move subsection (d)(3)'s requirement for an entity's EOP to include a "list of emergency contacts for the entity, including identification of single points of contact during an emergency" to being separately provided under subsection (g) as currently required by the existing rule 25.53(e).

#### **Subsection (d)(4) Affidavit.**

- Move subsection (d)(4)'s requirement for an entity's EOP to include an affidavit to a separate annual filing requirement under subsection (c)(2).

#### Subsection (e) Annexes

- Delete subsection (e)(1)(C)(iii) of the Commission's proposed rule, which requires an electric utility to include in its load shed annex "a registry of critical load customers" and, among other things, "the process for providing assistance to critical load customers in the event of an unplanned outage." Such a registry would contain highly sensitive proprietary customer information and, for certain critical loads such as critical natural gas facilities, highly sensitive critical infrastructure information, and therefore should not be filed.
- Delete subsections (e)(1)(G) and (e)(1)(H), requiring EOPs to include a cyber security annex and a physical security incident annex, respectively.
- Add a proviso in subsection (e)(2) pertaining to electric utilities that operate a generation resource, that states that "a generation facility that is leased, owned, or operated by a transmission and distribution utility pursuant to Tex. Util. Code 39.918 is not considered a generation resource."

#### Subsection (f) Drills

- Clarify the annual drill waiver criteria in subsection (f) for an entity if its EOP has been "implemented in response to an incident within the last 12 months."

#### Subsection (g) Reporting Requirements

- Rename the heading of this subsection from "**Reporting Requirements**" to "**Emergency contacts and status updates during an emergency**" to be more descriptive of its contents and to avoid confusion with other reporting requirements elsewhere in the proposed rule, and split subsection (g) into two paragraphs: (1) and (2).
  - Paragraph (1) should contain the emergency contact information described in the Commission's existing rule 25.53(e).
  - Paragraph (2) strikes: "commission staff may require an affected entity to provide an after action or lessons learned report and file it with the commission by a date specified by commission staff." This sentence is no longer necessary in light of the requirement elsewhere in the rule for each entity to file such reports annually by June 1 of each year for the previous year.